

**U.S. District Court  
North Carolina Middle District (Durham)  
CIVIL DOCKET FOR CASE #: 1:07-cv-00959-JAB-WWD**

BIRES v. WALTOM, LLC d/b/a WALTOM RACING, LLC  
Assigned to: CHIEF JUDGE JAMES A. BEATY, JR  
Referred to: MAG/JUDGE WALLACE W. DIXON  
Case in other court: Rowan County Superior Court, 07-cvs-3615  
Cause: Diversity

Date Filed: 12/20/2007  
Date Terminated: 08/15/2008  
Jury Demand: Plaintiff  
Nature of Suit: 190 Contract: Other  
Jurisdiction: Diversity

**Plaintiff**

**KELLY BIRES**

represented by **SHANNON L. VANDIVER**  
THE BRAY LAW FIRM, PLLC  
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**ATTORNEY TO BE NOTICED**

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**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**WALTOM, LLC d/b/a WALTOM RACING,  
LLC**

represented by **CHRISTOPHER CARLISLE LAM**  
KLGATES LLP  
214 N. TRYON ST.  
CHARLOTTE, NC 28202  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

| Date Filed | #        | Docket Text   |
|------------|----------|---|
| 12/20/2007 | <u>1</u> | PETITION FOR REMOVAL from Rowan County Superior Court, case number 07-CVS-3615., filed by WALTOM, LLC d/b/a WALTOM RACING, LLC. \$350.00 Filing Fee, Receipt #NCM002251 (Attachments: # <u>1</u> Exhibit A-Affidavit of John Mulvenna, # <u>2</u> Exhibit B-State |

Court File)(LAM, CHRISTOPHER) (Entered: 12/20/2007)

|            |           |   |
|------------|-----------|---|
| 12/20/2007 | <u>2</u>  | CORPORATE DISCLOSURE STATEMENT filed pursuant to FRCP 7.1(a) by Defendant WALTOM, LLC d/b/a WALTOM RACING, LLC by WALTOM, LLC d/b/a WALTOM RACING, LLC.(LAM, CHRISTOPHER) (Entered: 12/20/2007)   |
| 12/20/2007 | <u>3</u>  | COMPLAINT against WALTOM, LLC d/b/a WALTOM RACING, LLC, filed by KELLY BIRES. (State court complaint filed in Rowan County Superior Court, listed as Exhibit B in the Petition for Removal)(McClain, Abby) (Entered: 12/20/2007)  |
| 12/20/2007 | <u>4</u>  | Summons Issued as to WALTOM, LLC d/b/a WALTOM RACING, LLC. (State court document filed in Rowan County Superior Court, summons issued 11/27/2007, listed as Exhibit B in the Petition for removal) (McClain, Abby) (Entered: 12/20/2007)  |
| 12/20/2007 | <u>5</u>  | Notice of Right to Consent. Counsel shall serve the attached form on all parties. (McClain, Abby) (Entered: 12/20/2007)   |
| 12/20/2007 | <u>1</u>  | CASE REFERRED to Mediation pursuant to Local Rule 83.9b of the Rules of Practice and Procedure of this Court. Please go to our website form directory for a list of mediators which must be served on all parties. (McClain, Abby) (Entered: 12/20/2007)  |
| 12/20/2007 | <u>6</u>  | ECF 30 Day Notice as to Plaintiff's Attorney WILLIAM BRAY. (McClain, Abby) (Entered: 12/20/2007)  |
| 12/20/2007 | <u>7</u>  | NOTICE OF COMPLIANCE by Defendant WALTOM, LLC d/b/a WALTOM RACING, LLC (LAM, CHRISTOPHER) (Entered: 12/20/2007)   |
| 12/20/2007 | <u>8</u>  | MOTION for Extension of Time to File Answer <i>or Response to Complaint</i> by WALTOM, LLC d/b/a WALTOM RACING, LLC. Responses due by 1/12/2008 (Attachments: # <u>1</u> Text of Proposed Order Granting Extension of Time)(LAM, CHRISTOPHER) (Entered: 12/20/2007)   |
| 12/26/2007 | <u>1</u>  | ORDER granting <u>8</u> Motion for Extension of Time to Answer for WALTOM, LLC d/b/a WALTOM RACING, LLC. Answer due by 1/28/2008. Signed by John Brubaker, Clerk of Court, on 12/26/07. (BRUBAKER, JOHN) (Entered: 12/26/2007)  |
| 01/25/2008 | <u>9</u>  | MOTION to Change Venue by WALTOM, LLC d/b/a WALTOM RACING, LLC. Responses due by 2/17/2008 (Attachments: # <u>1</u> Exhibit A–Declaration of John Mulvenna, # <u>2</u> Exhibit 1 to Declaration of Mulvenna, # <u>3</u> Exhibit B–Court Time Interval) (LAM, CHRISTOPHER) (Entered: 01/25/2008)   |
| 01/25/2008 | <u>10</u> | MEMORANDUM in Support of <u>9</u> MOTION to Change Venue; filed by Defendant WALTOM, LLC d/b/a WALTOM RACING, LLC. (LAM, CHRISTOPHER) (Entered: 01/25/2008)   |
| 02/19/2008 | <u>11</u> | RESPONSE in Opposition re <u>9</u> MOTION to Change Venue, <u>10</u> Memorandum filed by KELLY BIRES. Replies due by 3/7/2008. (Attachments: # <u>1</u> Exhibit 1 – Complaint, # <u>2</u> Exhibit 2 – Affidavit of Kelly Bires, # <u>3</u> Exhibit 3 – NC Dept Commerce Webpage, # <u>4</u> Exhibit 4 – WalTom Press Release)(VANDIVER, SHANNON) (Entered: 02/19/2008)  |
| 03/07/2008 | <u>12</u> | REPLY MEMORANDUM filed by Defendant WALTOM, LLC d/b/a WALTOM RACING, LLC re <u>11</u> Response in Opposition to Motion, <u>9</u> MOTION to Change Venue filed by WALTOM, LLC d/b/a WALTOM RACING, LLC. (Attachments: # <u>1</u> Exhibit 1–Supplemental Declaration of John Mulvenna, # <u>2</u> Exhibit 1 to Supp. Declaration–Bires Agreement, # <u>3</u> Exhibit 2 to Supp. Declaration–Adams Agreement) (LAM, CHRISTOPHER) (Entered: 03/07/2008) |
| 04/10/2008 | <u>1</u>  | ***Motions Submitted: <u>9</u> MOTION to Change Venue to CHIEF JUDGE JAMES A. BEATY, JR– (Powell, Gloria) (Entered: 04/10/2008)   |
| 07/02/2008 | <u>13</u> |   |

NOTICE of Change of Address by CHRISTOPHER CARLISLE LAM (LAM, CHRISTOPHER)  
(Entered: 07/02/2008)

|            |           |  |
|------------|-----------|--|
| 08/01/2008 | <u>14</u> | MEMORANDUM OPINION signed by CHIEF JUDGE JAMES A. BEATY, JR on 8/1/2008 that the Court finds that the forum–selection clause at issue in the Agreement is not unjust or unreasonable, and is therefore valid. Further, having weighed the case– specific factors to determine if a transfer pursuant to 28 U.S.C. § 1404(a) is warranted, the Court finds that this matter should be transferred to the United States District Court for the Northern District of Illinois in accordance with the forum–selection clause. Therefore, Defendant's Motion to Transfer Venue (Doc. # <u>9</u> ) will be GRANTED and this action will be transferred to the United States District Court for the Northern District of Illinois. An Order consistent with this Memorandum Opinion will be filed contemporaneously herewith. (Lee, Lisa) (Entered: 08/01/2008) |
| 08/01/2008 | <u>15</u> | ORDER signed by CHIEF JUDGE JAMES A. BEATY, JR on 8/1/2008 that for the reasons stated in the Memorandum Opinion filed contemporaneously herewith, IT IS ORDERED THAT Defendant WalTom LLC d/b/a WalTom Racing, LLC's Motion to Transfer Venue (Doc. # <u>9</u> ) is GRANTED. Accordingly, IT IS FURTHER ORDERED THAT this matter be TRANSFERRED to the United States District Court for the Northern District of Illinois. (Lee, Lisa) (Entered: 08/01/2008)  |
| 08/15/2008 | <u>16</u> | TRANSFER Letter from Clerk's Office to Clerk, US District Court, NDIL. (Lee, Lisa) (Entered: 08/15/2008)   |